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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
 )  
Allocation of Spectrum Below 5 GHz )  
Transferred from Federal Government Use )

ET Docket No. 94-32

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COMMENTS OF BELL ATLANTIC<sup>1</sup>

I. Introduction and Summary.

The Commission's proposed rules governing use of the 4660-4685 MHz band are consistent with the goal of promoting innovation and the best use of the available spectrum.<sup>2</sup> Bell Atlantic urges the Commission to adopt most of the rules as proposed. The Commission should not, however, prescribe deadlines for constructing systems using the spectrum. Competitive bidding will create a strong economic incentive to put the spectrum to its most efficient use and to construct systems in the most efficient manner, without Commission intervention. A flexible approach will also prevent time-constraints that could inhibit licensees from developing innovative services. In addition, the Commission should allow

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<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

<sup>2</sup> **First Report and Order and Second Notice of Proposed Rule Making**, FCC 95-47 (rel. Feb. 17, 1995) ("Second Notice").

the competitive bidding process to decide the number of licenses to be assigned to any one entity, because some applications may require more than the Commission's proposed 15 MHz limit.

II. The Commission Should Adopt Its Proposals To Allow Flexible Use of This Spectrum.

The Commission should adopt its proposal to create a new General Wireless Communications Service in the 4660-4685 MHz band.<sup>3</sup> By adopting a flexible use approach to this band, the Commission's proposal would allow this spectrum to be used interchangeably for a variety of fixed and mobile services, including wireless local loop services, interactive video services, dispatch services, data services, and others not yet even developed.

A service-specific approach, by contrast, could cause the band to be under-utilized in some areas where the demand for a particular service might be less than the available spectrum.<sup>4</sup> A flexible allocation approach is likely to result in more efficient use of the spectrum in all areas.

Likely uses of this band are primarily subscriber-based, as the Commission tentatively concludes, making it eligible for assignment by competitive bidding.<sup>5</sup> Several of the

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<sup>3</sup> *Id.* at ¶ 60.

<sup>4</sup> *See id.* at ¶ 62.

<sup>5</sup> *Id.* at ¶¶ 68-69.

comments on the first Notice<sup>6</sup> demonstrated that the band was likely to be used for such consumer-oriented applications as interactive video, voice and data services. Two parties in particular suggested that the spectrum could provide efficient return paths in connection with interactive video applications.<sup>7</sup> Use of competitive bidding, therefore, is consistent with the statutory standards for this form of spectrum assignment.<sup>8</sup>

The Commission's proposal to license the 4660-4685 MHz band in five blocks of 5 MHz each provides for sufficient diversity of licensees without reducing each channel below usable levels.<sup>9</sup> For applications requiring higher bandwidth, the Commission provides for aggregation of channels (through the competitive bidding process).<sup>10</sup> Some uses, however, may require more than 15 MHz, and the Commission should not adopt its proposal to prevent a licensee from purchasing, through the competitive bidding process, the bandwidth needed for that

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<sup>6</sup> **Notice of Proposed Rule Making**, 9 FCC Rcd 6779 (1994).

<sup>7</sup> **See** Comments of Wireless Cable Association International and Comments of American Telecasting, Inc.

<sup>8</sup> 47 U.S.C. § 309(j)(3).

<sup>9</sup> Second Notice at ¶ 77.

<sup>10</sup> **Id.** The Commission also appropriately proposes that assignment of this spectrum should not count toward the 45 MHz spectrum ceiling which applies to certain commercial mobile radio services ("CMRSs") - cellular, personal communications service ("PCS"), and specialized mobile radio services. **Id.** at 78. The applications in this band are likely to be substantially different from those in the lower CMRS bands and innovative use of this new band should not interfere with an entity's planned CMRS operations.

licensee's planned applications, even if they exceed 15 MHz.<sup>11</sup>

The Commission's proposal generally to base license areas on Major Trading Areas ("MTAs") has proved successful to date in the PCS arena and should be adopted here as well.<sup>12</sup> As the Commission has tentatively determined, use of MTAs, coupled with the right of a licensee to partition and sub-license or lease a portion of the serving area, balances the interests and needs of national, regional, and niche providers.<sup>13</sup> The rules or standards for the sub-licensing should be as flexible as possible to allow parties to negotiate appropriate terms.

The Commission appropriately proposes to impose no categorical restrictions on license eligibility in this band.<sup>14</sup> Such an open policy will help ensure that the entire industry can apply its entrepreneurial talents to the most innovative use of the spectrum. Strict financial requirements, such as those applicable to PCS, will help to ensure that participation is limited to entities that are financially qualified to use the spectrum to provide services to the public. This will reduce the likelihood that the auction will need to be re-bid because some successful bidders have defaulted, as happened recently in the auctions for Interactive Video and Data Services.

For the same reason, the technical rules should be

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<sup>11</sup> *Id.* at ¶ 77.

<sup>12</sup> *Id.* at ¶ 79.

<sup>13</sup> *Id.* at ¶¶ 79-80.

<sup>14</sup> *Id.* at ¶ 83.

limited to those needed to prevent interference, as the Commission proposes, in order that the band may be used for a wide range of fixed and mobile services.<sup>15</sup> The rules in effect for PCS provide the best model for this new band. In addition, the Commission should adopt its proposal not to specify a maximum transmitter power restriction so long as licensees do not exceed the maximum permissible field strength at the border of their licensed areas.<sup>16</sup>

III. The Commission Should Not Prescribe A Construction Schedule for This Band.

There is no need, however, for the Commission to impose a construction schedule for licensees in this band, as it proposes.<sup>17</sup> Having invested a considerable sum of money in purchasing a license, a licensee has an economic incentive to build systems using the spectrum in the most efficient manner, in order to realize income from that investment as early as feasible. This is one of the advantages of awarding licenses by competitive bidding. The successful bidder should not need any additional incentive, other than the pressure to earn on the investment, to use the spectrum in the most technically and economically efficient manner.

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<sup>15</sup> *Id.* at ¶¶ 121-122.

<sup>16</sup> *Id.* The Commission appropriately proposes to limit the signal strength at the service boundaries to 55 dBu unless the adjacent operators negotiate different levels.

<sup>17</sup> *Id.* at ¶ 124.

As a result of the Commission's proposed flexible allocation policy for this spectrum, there is even less need to impose a construction schedule than was the case for other auctioned licenses. Licensees in the 4660-4685 MHz band are being afforded an opportunity to use new technology and to develop innovative services. They should be given sufficient time to develop new services that might otherwise be unavailable. The Commission's proposed aggressive construction schedule may constrain some licensees from using at least part of the spectrum for truly innovative technologies which may require longer lead times to develop and test.


IV. Conclusion.

Bell Atlantic urges the Commission to adopt its proposals for licensing of the 4660-4685 MHz band, with the changes discussed above.

Respectfully submitted,

**The Bell Atlantic Telephone  
Companies**

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